

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In the Matter Of,

Docket No. 16-MC-2637

FREDERICK M. OBERLANDER, an attorney
admitted to practice before this Court,

Respondent.

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**DECLARATION OF RESPONDENT MOVANT *PRO SE*
IN SUPPORT OF HIS *UNOPPOSED** EMERGENCY APPLICATION
FOR AN ORDER TO SHOW CAUSE
TO STAY HIS SUSPENSION FROM PRACTICING LAW IN THIS COURT**

I, Frederick M. Oberlander, with knowledge of the facts set forth here, declare the truth of the following under penalty of perjury per 28 U.S.C. § 1746 and LR 6.1(d) to show that good and sufficient reason exists for bringing this *unopposed** application for Order to Show Cause seeking a temporary stay pursuant to FRCP §62 (b)(4) or the TRO or other equitable equivalent.

*[On August 28, 2018 I told James Wicks, the attorney assigned to investigate allegations against me and to advise the Committee if prosecution of disciplinary action was required, that I would present this application to Court . *He confirmed that he did not oppose the relief requested and that I might so represent to the Court. Accordingly, this motion is unopposed.*]

This application seeks to stay prior to its taking effect the Order of this Court (Donnelly, U.S.D.J.) of August 13, 2018, directing that I be suspended from practicing law in this Court for one year commencing on September 1, 2018, which order is now subject to adjudication of my Motion to Reconsider per FRCP §60 (b)(6) and LR 6.3, which I timely filed on August 27, 2018.

This application is by Order to Show Cause rather than notice of motion because (1) I will suffer immediate irreparable harm absent the stay, and (2) the balance of equities is in my favor, and (3) I am advised that application by means of the *sub judice* motion for a stay could not be taken up until after this week, when it will be too late.

If relief is not granted, effective September 1, 2018, I will be suspended from practicing law in this Court for a year, and per LR 1.5(h) within 14 days, I will have to deliver a copy of this Court's Order of suspension to every court in which I am is admitted.

Not only will my livelihood be greatly impacted, and such harm not be adequately cured if I should ultimately prevail on the merits of reconsideration, I will become embroiled in reciprocal disciplinary proceedings in other jurisdictions under extremely difficult conditions because the entirety of of the record in this case is sealed, notwithstanding there is no formal order sealing it (of course I am aware that by policy Grievance Proceedings are confidential).

But of course far beyond that suspension and reciprocal discipline will cause my innocent clients to suffer serious prejudice not only because many have imminent deadlines, some jurisdictional, before the United States Court of Federal Claims, the New York State Supreme Court, the New York Appellate Division, and the New York Surrogate's Court, but because I represent one in the Court of Claims *pro bono* and he will not likely be able to secure replacement counsel (the same is no doubt true of those whom I represent on contingency).

Critically, the above consequences are likely to occur while my motion under FRCP 60 and LR 6.3 is pending before this Court. Thus, I and my clients will suffer serious harm, even if my motion is ultimately successful.

There will be no harm to the opposing side. As noted above, James Wicks, Esq. indicated that he does not oppose the instant application.

There is no other adequate remedy at law and a temporary restraining order or equivalent stay is the only viable option to preserve all the Respondent's rights.

WHEREFORE, it is respectfully requested that this Court grant the relief requested as described above, as well as such other and further relief as may be just and proper.

Dated: August 29, 2018
Montauk, New York

/s/ Frederick M. Oberlander
Respondent/Movant pro se